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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 DAVID M. BERARDUCCI (1);
11 BRANDI L. LEHMAN (2);
12 KIMBERLY L. REEDY (3);
13 BREANNA M. SHOVE (4); BROCK
14 E. EARLE (5); BILLY J.
15 KOSCHNEY (6); RHONDA J.
16 GENDREAU (7); MARGARIE L.
BROWN (8); LUCAS T. CASSIDY,
II (9); and FREDERICK WEIKERT,
JR.,

Defendants.

NO: 2:17-CR-128-RMP

ORDER GRANTING UNITED
STATES' MOTION FOR A
PROTECTIVE ORDER

17 BEFORE THE COURT is the United States' motion for a protective order,
18 ECF Nos. 106 (motion) and 108 (*praecipe* correcting scrivener's error in motion).
19 No responses were received from Defendants pursuant to the expedited hearing
20 schedule set by the Court at ECF No. 112 (text-only). The Court has reviewed the
21 motion, the record, relevant law, and is fully informed.

ORDER GRANTING GOVERNMENT'S MOTION FOR A PROTECTIVE
ORDER ~ 1

1 The United States initiated this case in a 45-count Indictment that names 10
2 Defendants and alleges, against some or all of the Defendants, conspiracy to
3 commit bank fraud, substantive acts of bank fraud, and aggravated identify theft.
4 ECF No. 1. Not all Defendants have yet made their initial appearances. *See* ECF
5 No. 102 (pretrial order as to seven Defendants). The United States indicates an
6 intention to provide discovery to Defendants “on a rolling basis . . . as they enter
7 the case,” following the Court’s ruling on the request for a protective order. ECF
8 No. 108 at 6.

9 The United States represents that the forthcoming discovery materials in this
10 matter contain various types of sensitive and personal identifying information
11 regarding alleged victims, third parties, and the Defendants themselves. ECF No.
12 108 at 3. The United States further represents that redacting the documents to be
13 disclosed during discovery would inhibit the ability of defense counsel to decipher
14 them.

15 The standard for entry of a protective order in a criminal matter, generally, is
16 good cause. *See* Fed. R. Crim. P. 16(d)(1) (providing that a “court may, for good
17 cause, deny restrict, or defer discovery or inspection, or grant other appropriate
18 relief”). The Court finds that the potential injury from the dissemination of the
19 sensitive information at issue, combined with the benefit from avoiding redaction
20 of that information, constitutes good cause to enter the proposed protective order in
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1 an expedited fashion. However, any Defendant may move to modify the protective
2 order at a later date. *See* Fed. R. Crim. P. 16(d).

3 Accordingly, **IT IS HEREBY ORDERED** that:

4 1. The United States’ Motion for a Protective Order, **ECF No. 106**, is
5 **GRANTED**.

6 2. The United States is authorized to disclose, in an unredacted format,
7 the discovery and sensitive information materials (hereinafter
8 “Discovery”) in its possession in the above-captioned matter. The
9 United States is further authorized to produce Discovery pursuant to
10 the obligations imposed by this Court.

11 3. United States personnel and counsel for Defendants shall not provide,
12 or make available, the Discovery to any person except as specified in
13 this Order or by approval from this Court. Accordingly, defense
14 counsel and the United States shall restrict access to the Discovery,
15 and shall disclose the Discovery only to Defendants, office staff,
16 investigators, independent paralegals, necessary third-party vendors,
17 consultants, and/or anticipated fact or expert witnesses to the extent
18 that defense counsel believes is necessary to assist in the defense of a
19 Defendant in this matter or that the United States believes is necessary
20 in the investigation and prosecution of this matter.

- 1 4. Third parties contracted by the United States or defense counsel to
2 provide expert analysis or testimony may possess and inspect the
3 Discovery, but only as necessary to perform their case-related duties
4 or responsibilities in this matter. At all times, third parties shall be
5 subject to the terms of this Order.
- 6 5. Discovery in this matter will be made available to defense counsel via
7 access to a case file on USA File Exchange. If it is necessary for
8 Defendants to review discovery personally, defense counsel may
9 download the discovery and duplicate it only once for that purpose.
10 Discovery materials may not be left in the possession of any
11 Defendant at any time. In order to provide Discovery to a necessary
12 third-party vendor, consultant, and/or anticipated fact or expert
13 witness, defense counsel may duplicate the Discovery, only once for
14 that purpose. No other copies shall be made by Defendants, defense
15 counsel, or any third parties related to, hired, or otherwise employed
16 on behalf of Defendants, without prior approval from this Court.
- 17 6. To the extent that defense counsel makes any portion of the Discovery
18 available in paper format to anyone, including Defendants, outside of
19 defense counsel's office(s), defense counsel shall ensure that any and
20 all sensitive information is redacted or removed. Such
21 redaction/removal shall include, but shall not be limited to, the

1 following information: (a) all Social Security, identification card,
2 driver's license, birth certificate, and taxpayer identification numbers;
3 (b) all business and employer names, locations, addresses, as well as
4 salary information; (c) residential and business addresses; (d) all dates
5 of birth, organ donor information, telephone numbers, and email
6 addresses; (e) all lease, bill, or other payment amounts; and (f) all
7 information identifying the contents and routing and account
8 number(s) of any financial account, including bank, trust, and
9 retirement account(s).

- 10 7. For purposes of this Order, "other party" is any person other than
11 counsel for the United States, defense counsel, or a Defendant.
12 Defense counsel of record shall ensure that any defense-affiliated
13 other party who obtains access to the Discovery will be provided a
14 copy of this Order. No other party who obtains access to or
15 possession of the Discovery shall retain such access or possession
16 unless authorized by this Order, nor further disseminate the Discovery
17 except as authorized by this Order. Any other party who obtains
18 access to or possession of, the Discovery once the other party no
19 longer requires access to or possession of the Discovery shall
20 promptly destroy or return the Discovery once access to Discovery is
21 no longer necessary.

1 8. All counsel of record, including counsel for the United States, shall
2 keep a list to identify each person to whom the Discovery is disclosed
3 and who was advised of the requirements of this Order. Neither
4 defense counsel nor the counsel for the United States shall be required
5 to disclose this list of persons unless ordered to do so by the Court.

6 9. Upon entry of a final order of the Court in this matter and the
7 conclusion of any direct appeals, the United States and defense
8 counsel shall retrieve and destroy all copies of the Discovery, except
9 that counsel and government personnel may maintain copies in their
10 closed files following their customary procedures.

11 10. The United States and defense counsel shall promptly report to the
12 Court any known violations of this Order.

13 The District Court Clerk is directed to enter this Order and provide copies to
14 counsel.

15 **DATED** August 14, 2017.

16 *s/ Rosanna Malouf Peterson*
17 ROSANNA MALOUF PETERSON
18 United States District Judge
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